

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN DOE; JANE DOE; and JAMES DOE,)
)
Plaintiffs,)
)
V.)
)
CITY OF BOSTON; PAUL EVANS, individually;)
ROBERT DUNFORD, individually; MELBERT)
AHEARN, individually; ANNE MARIE)
DOHERTY, individually; LADONNA HATTON,)
individually; EILEEN VANDERWOOD, individually;)
JOHN MCLEAN, individually; MARIE DONOHUE,)
individually; DEFENDANT DOES 1-5, individually;)
MASSACHUSETTS DEPARTMENT OF)
CHILDREN AND FAMILIES; DEFENDANT DOES)
6-10, individually; BOSTON POLICE)
PATROLMAN’S ASSOCIATION; THOMAS NEE,)
individually; DEFENDANT DOES 11-15,)
individually; PATRICK ROSE, SR.; and)
FRANCES ROSE,)
)
Defendants.)
)

C.A. No. 1:23-CV-11294-FDS

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ MOTION FOR LEAVE
TO AMEND COMPLAINT TO SUBSTITUTE THE NAMES OF “DEFENDANT DOES
6-10” AND TO AMEND THE COMPLAINT RELATIVE TO THOSE DEFENDANTS**

Plaintiffs, John Doe, Jane Doe, and James Doe, pursuant to Federal Rule of Civil Procedure 15(a)(2), move for leave to amend their Complaint to substitute the names of “Defendant Does 6-10” and to amend the Complaint relative to those defendants. Plaintiffs seek to substitute as defendants, Rudolph Adams, Raymond Smith, Sheryl Hilliard, and Gail Sullivan, all of whom were employees or agents of the Massachusetts Department of Children and Families (formerly Massachusetts Department of Social Services) (collectively referred to as “DCF”) at the time of the subject incident. Plaintiff further seek to amend the factual and legal allegations in the Complaint relative to those defendants. As grounds for the motion, Plaintiffs state as follows.

On June 8, 2023, Plaintiffs, John Doe, Jane Doe, and James Doe (“Plaintiffs”) filed a Complaint in this action (“Complaint”) alleging multiple constitutional and tort claims against several defendants including the Massachusetts Department of Children and Families and its employees identified as Defendant Does 6-10 (collectively, the “DCF Defendants”).¹ Since the filing of the Complaint, Plaintiffs filed a Notice of Dismissal of DCF. In its original Complaint, Plaintiffs allege that in 1995, DCF Defendants received and investigated reports that Defendant, Patrick Rose, Sr. was sexually abusing Plaintiff, John Doe. Plaintiffs allege, *inter alia*, that the investigation and response of the DCF Defendants violated Plaintiffs state and federal rights.

Through investigation, Plaintiffs have determined the identities of some of the DCF employees, agents, or representatives who were involved in the subject incident. Namely, Rudolph Adams, Raymond Smith, Sheryl Hilliard, and Gail Sullivan were employees, agents, or representatives of DCF who participated in, directed, and/or otherwise were parties to the conduct at issue in the Complaint and are responsible for Plaintiffs’ injuries and damages. Specifically, then DCF Area Director Adams oversaw the child welfare program for John Doe and Jane Doe. Adams received and investigated the reports of child abuse and neglect related to John Doe and Jane Doe. DCF social workers, Sheryl Hilliard and Gail Sullivan reviewed and made determinations relative to the Child Abuse and Neglect Report filed with DCF in 1995 that relates to sexual abuse by Defendant, Patrick Rose, Sr. against John Doe. DCF social worker, Raymond Smith conducted

¹ Against the DCF Defendants, Plaintiffs allege violation of the Fourteenth Amendment, 42 U.S.C. § 1983 (Counts 7-10); violation to interfere with the Civil Rights Act, 42 U.S.C. § 1985 (Count 12); violation of the Massachusetts Civil Rights Act, M.G.L. c. 12 §11H & §11I (Count 17); negligent hiring, training, supervision, and retention (Count 27); gross negligence (Count 29); intentional infliction of emotional distress (Count 32); negligent infliction of emotional distress (Count 37); and loss of consortium (Count 39).

the DCF investigation of the allegations set forth in the Child Abuse and Neglect Report. Based on his investigation, Smith concluded that the evidence supported the allegations that Rose sexually abused John Doe, and Smith referred the case to the Suffolk County District Attorney's Office. Area Director Adams was involved in the referral of John Doe's case to the Child Abuse Unit at the Suffolk County District Attorney's Office.

Plaintiffs move this court to allow them to amend their complaint to substitute the names of "Defendant Does 6-10" with the herein identified defendants, make revisions to the allegations relative to the claims against those defendants, as more fully set forth in the proposed Amended Complaint attached hereto as Exhibit 1, and remove DCF as a defendant.

Rule 15 of the Federal Rules of Civil Procedure states that leave to amend "...shall be freely given when justice so requires." Plaintiffs respectfully submit that should the proposed defendants not be joined in the suit, the individuals who may be wholly or partially at fault for the injuries to Plaintiffs, would escape liability. The deadline for filing amended pleadings under Federal Rule 16(b)(3) has not yet passed. The parties are engaged in the pleading stage and discovery has not begun.

Plaintiffs respectfully submit that the parties, including the proposed defendants, will not be prejudiced by the Court allowing this motion to amend.

WHEREFORE, Plaintiffs respectfully request that this honorable Court grant their motion to amend the Complaint to add Rudolph Adams, Raymond Smith, Sheryl Hilliard, and Gail Sullivan as defendants and grant such other and further relief as it deems just and proper.

PLAINTIFFS, JOHN DOE, JANE DOE,
AND JAMES DOE,

/s/ Janine D. Kutyllo, Esq.

DATE: March 19, 2024

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants, as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those identified as non-registered participants on this 19th day of March, 2024

/s/ Janine D. Kutyllo, Esq.

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